

Revised July 2004

“STAND BY YOUR AD”



Virginia’s “Stand By Your Ad” Law

Summary of Law and Policies

for

Candidates, Political Committees and Persons

Title 24.2, Chapter 9.2 of the Code of Virginia

COMMONWEALTH OF VIRGINIA
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Chapter 1 – Introduction

Purpose of *Summary*

§24.2-903 requires the State Board of Elections to prepare and make available a summary of the Campaign Finance Laws in Virginia. To that end, we have assembled this *Summary of Virginia's Campaign Finance Laws and Policies* (hereafter referred to as “*Summary*”), which outlines the requirements of the Campaign Finance Disclosure Act and related policies.

This document has been prepared to assist the filer in understanding the law and policies set forth by the Code of Virginia governing political advertisements in Virginia. SBE makes this *Summary* available on the Internet to all candidates, their treasurers, to treasurers of political committees and the general public. It is also available upon request. This manual is a basic reference tool, and is **not** a substitute for the actual law (a copy of which is available for purchase or to read on-line on our website:

http://www.sbe.state.va.us/Campaign_Finance/)

General Information

The Virginia State Board of Elections (SBE) provides information and resources to assist candidates and committees in complying with the provisions of the Campaign Finance Disclosure Act, Chapter 9 of Title 24.2 of the Code of Virginia (CFDA). The most common mistakes made by candidates and their treasurers involves understanding the importance of properly disclosing the source of the payment for political advertisements and whether or not a candidate for election has authorized the ad. As a candidate, treasurer, or committee chairman, you should familiarize yourself with this *Summary* for it will serve as a valuable resource. Of course, the Campaign Finance staff is always available by telephone, facsimile, or e-mail to provide assistance.

State Board of Elections Campaign Finance Staff

SBE staff is available to assist you in preparing reports and interpreting the requirements of the CFDA. Should you have questions or require clarification, contact:

Chris Piper, Campaign Finance Administrator, email: chris.piper@sbe.virginia.gov

Rise Miller, Political Committee Specialist, email: rise.miller@sbe.virginia.gov

Marian Mines, Campaign Committee Specialist, email: marian.mines@sbe.virginia.gov

Tina Edmonds, Compliance Specialist, email: tina.edmonds@sbe.virginia.gov

Related Publications

Candidates and their treasurers should also familiarize themselves with the State Board of Elections' *Summary of Laws and Policies: Candidates and Their Committees* and *Summary of Laws and Policies: Political Committees* to understand the guidelines governing Campaign Finance Disclosure laws in Virginia.

Elections Not Covered

The provisions of CFDA do not apply to primaries and elections for:

- ⇒ **Members of the United States Congress;**
- ⇒ **Town office in a town with a population of less than 25,000;**
- ⇒ **Directors of soil and water conservation districts; or**
- ⇒ **Political Party Committee Officers.**

In addition, corporations and unions that make contributions from their direct operating funds are not subject to the requirements of CFDA. However, they are subject to reporting requirements if they make an Independent Expenditure in excess of \$500 for a statewide election or \$200 for any other election.

Internal Revenue Service Requirements

For political organizations established under section 527 of the Internal Revenue Code, there exist expanded reporting and disclosure requirements. These “527 groups” are required to publicly disclose details about their organization, contributors, expenditures, annual returns and other information. Political parties, campaign committees for candidates for federal, state or local office and political action committees are all political organizations subject to tax under [§527](#).

SBE has no authority or responsibility to provide any advice regarding federal campaign finance or tax laws. Therefore, if you have questions regarding whether or not your campaign meets the requirements of the federal law please contact the Internal Revenue Service. Their website address is <http://www.irs.gov/charities/political/index.html>.

Federal Candidates and Committees

Any person or committee who wishes to purchase a political advertisement for:

- ⇒ **President of the United States;**
- ⇒ **Vice-President of the United States;**
- ⇒ **United States Senate;**
- ⇒ **United States House of Representatives; or**

any political committee wishing to purchase political advertisements for those federal candidates must contact the Federal Election Commission (FEC) to obtain forms and information pertaining to federal political advertisement laws and policies. You may contact the FEC at:

800-424-9530 (toll-free) or 202-694-1100 (within the Washington, D.C. area)
www.fec.gov – Internet address
999 E. Streets, NW, Washington, DC 20463-0002 – U.S. Mail

Definitions

The following are definitions of terms, as used in this chapter that are of principal importance to political advertising. If you wish to read the exact definition as it appears in the statutes, you may refer to the §§24.2-101, 24.2-901 and 24.2-904 of the Code of Virginia.

Advertisement – any message appearing in the print media, on television, or on radio that constitutes a contribution or expenditure under Chapter 9 (§§ 24.2-900 et seq.) of this title. “Advertisement” does not include novelty items authorized by a candidate including, but not limited to, pens, pencils, magnets, and buttons to be attached to wearing apparel.

Candidate – an individual who seeks nomination for election, or election to public office, in the Commonwealth of Virginia, whether or not such individual is elected. An individual will be considered a candidate seeking nomination for election, or re-election if he/she has:

- ⇒ **Personally, or through another person, has solicited or received funds or other things of value, or made expenditures, including expenditures from personal funds, for the purpose of bringing about such individual's nomination or election to any office; or**
- ⇒ **Has been endorsed or nominated by a Political Party and is thus entitled to a position on the ballot at an election or primary (whether or not funds or resources have been solicited, received or expended); or**
- ⇒ **Is otherwise qualified for placement on the ballot pursuant to the election laws (whether or not funds or resources have been solicited, received or expended).**

Candidate Campaign Committee – the committee designated by a candidate to receive all contributions and make all expenditures for him or on his behalf in connection with his nomination or election. A Candidate's Campaign Committee may only be used to support one candidate.

Conspicuous – so written, displayed, or presented that a reasonable person ought to have noticed it.

Full-screen – the only picture appearing on the television screen during the oral disclosure statement that (i) contains the disclosing person, (ii) occupies all visible space on the television screen, and (iii) contains the image of the disclosing person that occupies at least fifty percent of the vertical height of the television screen.

Occurrence – one broadcast of a radio or television political campaign advertisement in violation of the expanded disclosure requirements for television and radio as required under §24.2-944.

Political Action Committee (PAC) – any person, association, organization, group of individuals, or other committee (other than a political party committee) which anticipates receiving contributions or making expenditures in whole or in part, for the purpose of influencing the outcome of a Virginia election, during the calendar year in an aggregate amount exceeding \$200. Corporations, unions and individuals making independent expenditures of more than \$500 for a statewide election or \$200 for any other election on behalf of or in opposition to a candidate. Organizations or auxiliaries associated with or using the name of a political party are considered PACs.

Political Party – an organization of citizens of the Commonwealth, which, at either of the two preceding statewide general elections, received at least ten percent of the total vote cast for any statewide office, filled in that election. The organization shall have a state central committee and an office of elected state chairman, which have been continually in existence for the six months preceding the filing of a nominee for any office.

Political Party Committee – means any state political party committee, congressional district political party committee, county or city political party committee, or organized political party group of elected officials. The term shall not include any other organization or auxiliary associated with or using the name of a political party; those organizations or auxiliaries are considered Political Action Committees.

Print Media – billboards, cards, newspapers, newspaper inserts, magazines, mass mailings, pamphlets, fliers, bumper stickers, periodicals, website, electronic mail, and outdoor advertising facilities. A “mass mailing” is a mailing with more than 500 pieces.

Radio – any radio broadcast station that is subject to the provisions of 47 U.S.C. §§ 315 and 317.

Referendum Committee – any person, group of persons or committee that makes expenditures in a calendar year in excess of (i) \$10,000 to advocate the passage or defeat of a statewide referendum, (ii) \$5,000 to advocate the passage or defeat of a referendum being held in two or more counties or cities, and (iii) \$1,000 to advocate the passage or defeat of a referendum held in a single county or city. Referendum committees are required to file campaign finance reports according to the same schedule that candidates for that same election.

Scan Line – a standard term of measurement used in the electronic media industry calculating a certain area in a television advertisement.

Sponsor – a candidate, candidate campaign committee, political party committee, political action committee, individual, or other entity that purchases an advertisement.

Television – any television broadcast station, cable television system, wireless-cable multipoint distribution system, satellite company, or telephone company transmitting video programming that is subject to the provisions of 47 U.S.C. §§ 315 and 317.

Un-obscured – means that the only printed material that may appear on the television screen is a visual disclosure statement required by law, and that nothing is blocking the view of the disclosing person's face.

Chapter 2 – Basic Requirements of “Stand By Your Ad”

The “*Stand By Your Ad*” law is a section of the Code of Virginia that governs the requirements for political advertisements. This law is made up of two parts: the first part is basic requirements that all advertisements must meet; the second is expanded disclosure requirements for television and radio advertisements.

The “*Stand By Your Ad*” disclosure requirements **DO NOT** apply to:

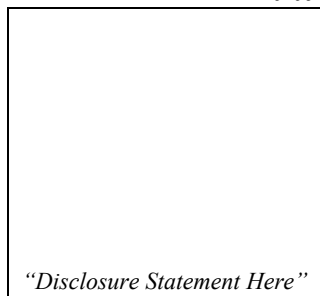
- ⇒ **An individual who makes uncoordinated independent expenditures aggregating less than \$1,000 in a political campaign; or**
- ⇒ **an individual who incurs expenses ONLY with respect to a referendum; or**
- ⇒ **any referendum committee.**

Basic Law

If you use monies, that constitute a contribution or expenditure under the *Campaign Finance Disclosure Act* of Virginia, to pay for print media, radio or television advertisements, one or any required combination of the following conditions **must be met**:

- ⇒ **In a print media advertisement, the disclosure statement must be written, displayed or presented in a conspicuous place so that any reasonable person should notice it.**

Print Media Advertisement



- ✓ *Statement must show in a place where it can be easily seen or read.*
- ✓ *Statement must appear only once if more than one page, fold, or face in the ad.*

Paid for by [. . .] Statement

- ⇒ **Every advertisement (print media, television and radio) must state who PAID for the ad.**
- ⇒ **If the sponsor of the advertisement is the candidate the ad supports or that candidate's campaign, *only* this statement is required.**
- ⇒ **Television ads require this statement to appear in a visual legend.**
- ⇒ **For Political Parties and PACs, the name that is used in stating who paid for an ad must be the same name that appears on the *Statement of Organization* form that was filed with the SBE when the committee was formed.**

Authorized by [. . .] Statement

- ⇒ **If an advertisement supports *or* opposes a candidate AND if supporting, is not paid for by the candidate or the candidate's committee, that ad must also include an **AUTHORITY** statement that clearly states whether or not the candidate authorized the advertisement.**

Examples:

"Paid for by . . . (the name of the sponsor) and authorized by (name of candidate), candidate for (name of office being sought)"

OR

"Paid for by . . . (the name of the sponsor) and not authorized by a candidate."

Statement of Intended Benefit

- ⇒ **If an ad recognizes a candidate the sponsor is opposing, the sponsor must also disclose in the advertisement, the name of the candidate who is intended to benefit from the ad. (This only applies if the sponsor of the ad coordinated or consults with the candidate who is intended to benefit).**

In all cases, if an advertisement is jointly sponsored, the disclosure statement must name all of the sponsors.

When Disclosure Statements are Required

A disclosure statement is required for all advertisements. The proper disclosure statement must be used in order to be in compliance with the requirements of the law. The following is a list of the specific items that both require and do not require a disclosure statement:

A Disclosure Statement Required on:

- ⇒ **Billboards**
- ⇒ **Bumper Stickers**
- ⇒ **Cards**
- ⇒ **Sample Ballots**
- ⇒ **Newspaper ads**
- ⇒ **Newspaper inserts**
- ⇒ **Magazines**
- ⇒ **Mass mailings (over 500 pieces)**
- ⇒ **Pamphlets**
- ⇒ **Fliers**
- ⇒ **Periodicals**
- ⇒ **Palm Cards**
- ⇒ **Websites**
- ⇒ **Electronic mail (E-mail)**

- ⇒ **Outdoor advertising facilities**
- ⇒ **Television advertisements**
- ⇒ **Radio advertisements**

A Disclosure Statement is Not Required on:

- ⇒ **Pens**
- ⇒ **Pencils**
- ⇒ **Magnets**
- ⇒ **Buttons to be attached to wearing apparel**
- ⇒ **Other such novelty items.**

Requirements for Publications

It is unlawful for any of the entities listed below, to accept or receive or agree to accept or receive any money or other valuable consideration for supporting or advocating the election or defeat of any candidate.

- ⇒ **Owner,**
- ⇒ **Clerk,**
- ⇒ **Proprietor,**
- ⇒ **Agent,**
- ⇒ **Officer,**
- ⇒ **Editor,**
- ⇒ **Reporter,**
- ⇒ **Manager, or**
- ⇒ **Employee of any newspaper, magazine, or periodical printed or published in Virginia.**

This section does not prevent any person, firm or corporation that is engaged in the publication of any newspaper, magazine or periodical from receiving from any person compensation for printing and publishing any matter or article that advocates the election or defeat of any candidate, as long as the statement “**PAID ADVERTISEMENT**”, appears in plain type in boldface Roman capitals in a conspicuous place at the beginning of the matter or article; and the matter or article otherwise complies with the provisions of §24.2-1014 of the Code of Virginia.

The person accepting a “**PAID ADVERTISEMENT**” for the newspaper, magazine or periodical shall require and for one year, retain a copy of, proof of the identity of the person who submits the advertisement for publication when the authorization statement on the advertisement is made by any person other than the:

- ⇒ **Candidate;**
- ⇒ **Candidate's Campaign Committee;**
- ⇒ **Political Party Committee; or**
- ⇒ **Political Action Committee (PAC) registered with the SBE.**

This proof of identity must be submitted either:

- ⇒ **In person and include a valid VA driver's license, or any other identification card issued by a government agency of the Commonwealth, one of its political subdivisions, or the United States; or**
- ⇒ **If other than in person, the person submitting the advertisement must provide a telephone number and the person accepting the advertisement may phone the person to verify the validity of the person's identifying information before publishing the advertisement.**

Chapter 3 - Expanded Disclosure Requirements for Television and Radio

Media Rules

There are additional requirements for **television** and **radio** advertisements beyond the basic requirements. In a television ad, the visual disclosure legend must consist of 20 scan lines in size.

- ⇒ **An un-obscured, full-screen picture containing the disclosing individual, either in photographic form or through the actual appearance of that individual on camera, must be featured throughout the entire disclosure statement.**
- ⇒ **In a radio advertisement, the disclosure statement must be at least two seconds long and must be spoken so that its contents may be easily understood.**
- ⇒ **The candidate must also include a spoken disclosure statement *only* when the ad that was purchased by the candidate or their committee mentions the name, shows the picture of, transmits the voice of, or otherwise refers to an opposing candidate for the same office as the sponsoring candidate.**

Television and radio advertisements must also include an additional disclosure statement as well. The chart below demonstrates the types of disclosures for each as required under §24.2-944 of the Code of Virginia.

Sponsor	Expanded Requirements	
	Television	Radio
Candidate or Campaign Committee *These requirements are not necessary if the advertisement does not identify or make reference to an opposing candidate for the same office as the sponsoring candidate.	"I am (or 'This is . . .') [name of candidate], candidate for [name of office] and I (or 'my campaign') sponsored this ad."	"I am (or 'This is . . .') [name of candidate], candidate for [name of office] and this ad was paid for (or 'sponsored by' or 'furnished by') [name of candidate or campaign committee that paid for the ad]."
Political Party Committee	"The [name of political party committee] sponsored this ad."	"This ad was paid for (or 'sponsored by' or 'furnished by') [name of political party committee, which shall include the name of the political party]."
Political Action Committee	"The [name of political action committee as it appears on its Statement of Organization] sponsored this ad."	"This ad was paid for (or 'sponsored by' or 'furnished by') [name of political action committee as it appears on its Statement of Organization]."
Individual	"I am [individual's name] and I sponsored this ad."	"I am [individual's name] paid for ('sponsored' or 'furnished') this ad."
Other sponsorⁱ	"[name of sponsor] sponsored this ad."	"[name of sponsor] paid for ('sponsored' or 'furnished') this ad."

If an advertisement is jointly sponsored the disclosing individual must be one of those sponsors:

- ⇒ If a candidate is one of those sponsors, the candidate must be the disclosing individual.
- ⇒ If more than one candidate is the sponsor of a jointly sponsored advertisement, at least one of the candidates must be the disclosing individual.

Summary of Media Rules

Television Advertisement

- ⇒ Disclosure statement must be 20 scan lines.
- ⇒ An un-obscured, full-screen picture containing the disclosing individual, either in photographic form or through the actual appearance of that individual on camera, must be featured throughout the entire disclosure statement.
- ⇒ The disclosure statement can be made at any point, unless the ad is more than 5 minutes, in which case the statement must be made at both the beginning and at the end of the ad. The sponsor may provide the oral disclosure statement required by this section at the same time as the visual disclosure required under the Communications Act of 1934, 47 U.S.C. §§315 and 317, administered by the Federal Communications Commission.

Radio Advertisement

- ⇒ Disclosure statement must last 2 seconds long.
- ⇒ The candidate must also include a spoken disclosure statement when the ad mentions the name, shows the picture, transmits the voice, or otherwise refers to an opposing candidate for the same office as the sponsoring candidate.
- ⇒ Political party or PAC ads must include a disclosure statement spoken by the chair, executive director or treasurer of that organization.
- ⇒ In its oral disclosure statement, a political party committee, PAC, individual or other non-candidate sponsor may choose to identify the advertisement as either supporting or opposing any candidates clearly identified in the ad.
- ⇒ For ads on radio, the placement of the oral disclosure statement shall comply with the requirements of the Communications Act of 1934, 47 U.S.C. §§315 and 317, administered by the Federal Communications Commission.

Chapter 3 - Campaign Telephone Calls

Requirements

Campaign telephone calls is a series of telephone calls, electronic or otherwise, made to twenty-five or more telephone numbers in the Commonwealth during the 180 days before a general or special election or during the ninety days before a primary, conveying or soliciting information relating to any candidate or political party participating in the election or primary, and under an agreement to compensate the telephone callers.

It is unlawful for any person to make campaign telephone calls without disclosing before the conclusion of each telephone call, information to identify the person who has authorized and is paying for the calls unless such call is terminated prematurely by means beyond the maker's control. The person making the campaign telephone calls must disclose the following identifying information:

- ⇒ **The name of candidate if the calls are authorized by the candidate or his campaign committee;**
- ⇒ **The name of political party committee if the calls are authorized by that committee or an agent of that committee; or**
- ⇒ **The name of committee and committee's registration number if the writing is authorized by a political committee registered with the SBE, or**
- ⇒ **The full name and home addressⁱⁱ of the person responsible if the writing is authorized by any person other than a candidate, his campaign committee, a political party committee or a committee registered with the SBE.**

It is unlawful for any person who contracts for campaign telephone calls to fail to provide to the persons making the telephone call the identifying information required by §24.2-1014.1.

It is unlawful for any person to provide a false or fictitious name or address when providing the identifying information required under this section.

Chapter 4 - Violations/Enforcement

Penalties for Print Media

The State Board of Elections has determined that violations to SBYA should be considered in a cumulative fashion and that the penalties should be assessed based on the number of violations from the same committee within an election cycle.

Violations

The person alleging any violation to print media, radio or television advertisements should contact the State Board if the committee is a Political Committee, Political Party Committee or Candidate for the General Assembly or Statewide office. All other complaints should be forwarded to the Electoral Board in the county or city in which the violation is believed to have occurred. Once the complaint is received, the Board has the authority to determine if a violation has occurred and assesses the appropriate penalty or they can inform the complainant to forward the matter to the localities' Commonwealth's Attorney who has the authority to investigate the matter further.

Penalties

Print Media

\$50 – 1st Violation by a committee in an election cycle

\$100 – Subsequent violations in an election cycle

Radio

\$125 per occurrence – 1st Violation by a committee in an election cycle

\$250 per occurrence – Subsequent violations in an election cycle

TV

\$250 per occurrence – 1st Violation by a committee in an election cycle

\$500 per occurrence – Subsequent violations in an election cycle

Penalties for Campaign Calls

The following are penalties for violations of §24.2 Chapter 9.2 of the Code of Virginia and §24.2-1014.1 Chapter 10 of the Code of Virginia.

Violations

The person alleging any violation should report the alleged violation to the Commonwealth's Attorney in the county or city in which the violation is believed to have occurred.

Penalties

Any person who fails to obey any provisions of the above may be deemed guilty of a Class 1 misdemeanor punishable by confinement in jail for not more than 12 months and a fine of not more than \$2,500, either or both.

End Notes

ⁱ **Sponsor** means anyone other than a candidate, campaign committee, political party committee, political action committee or an individual. This is a catchall provision intended to cover any circumstance that is not listed.

ⁱⁱ The home address must identify the physical location in which the person lives; post office boxes are not legally acceptable.